

**ESTABLISHING THE NATIONAL INDIAN RESEARCH
INSTITUTE**

AUGUST 24, 1993.—Ordered to be printed

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Mr. INOUE, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 1121]

The Committee on Indian Affairs, to which was referred the bill (S. 1121) having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE

S. 1121 would authorize the establishment of the National Indian Research Institute in Washington, D.C., an institute which would provide assistance to those who formulate Indian policy by creating and maintaining a database of information on American Indian issues and by conducting research and analyses that would contribute to the development of Indian policy.

BACKGROUND

The history of United States policy toward Indians is one of frequent shifts and reversals of policy over the past two centuries. Today, although Federal court decisions may result in exceptions, abrupt shifts in Federal Indian policy are made less likely owing to commitments of both the Congress and the Executive branch to active consultation with tribal governments on proposed changes.

Laws and regulations adopted contemporaneously, however, may be and sometimes are at variance with prevailing policy. Although the principal features of current Indian policy appear to be widely acknowledged and accepted, such features are not invariably re-

flected in legislation of general application and in regulations promulgated by Federal agencies. Given the large number of committees in the Congress, the Congress may advance measures that inadvertently neglect the responsibilities of the United States to tribal governments or in other ways depart from current policy. Implementation of policy may be uneven or inconsistent among Federal departments and agencies. At several levels of government and in their various branches, the principal features of Indian law and policy and the characteristics of Indian country are insufficiently known.

Underlying at least some of the failures by the Federal government or other governments in the development of legislation and regulations is the absence of a reliable source of data and information and the scarcity of broad policy analyses conducted with the full participation of tribal governments.

Recognizing these needs, the Congress enacted P.L. 101-301, a law which authorized a feasibility study to be conducted, under the sponsorship and with the support of the George Washington University, through a National Indian Policy Center organized for the purpose. Guided by a 21-member planning committee, the Center organized seven task forces of policy experts, commissioned special papers and surveys, and made presentations and engaged in discussions at more than 40 meetings in Indian country. These activities were summarized in August, 1991, in a widely distributed progress report. On June 1, 1992, the Center reported the findings of its feasibility study in its "Report to the Congress: Recommendations for the Establishment of a National Indian Policy Center."

In its report, the Center concluded that there is a compelling need for an Indian research institute that would address issues in a broad context and that would compile accurate data and information on tribal governments and their citizens, and that establishment of a Federally chartered and supported research institute would be of substantial benefit to the Federal government and to other institutions shaping Indian policies.

Establishment of this Indian-directed research institute has been endorsed by tribal governments across the country and by the National Congress of American Indians, the largest national Indian organization, which described the Institute as "greatly needed," and said that the National Congress anticipates that it will be a valuable partner to assist the tribes in developing progressive federal Indian policies." Other broadly-based organizations advising the Committee of their support for the legislation include the Joint Tribal/Bureau of Indian Affairs/Department of Interior Advisory Task Force on Bureau of Indian Affairs Reorganization, the American Indian Higher Education Consortium, and the American Indian Science and Engineering Society.

MAJOR PROVISIONS OF THE BILL

S. 1121, as amended, would authorize the establishment of a National Indian Research Institute at the George Washington University in Washington, D.C. The Institute's principal functions would be to conduct research concerning Federal Indian policy matters, to establish an information and data clearing house on Indian issues,

to conduct forums and symposia, and to publish and disseminate the products of its research.

Within the institutional framework of George Washington University, an 18-person board of directors would define policies for the Institute, employ a director and other staff, and give continuing guidance to the Institute. Except for two ex officio members representing the University, the governing board would be appointed by the Senate (seven members) and the House of Representatives (seven members), after consultation with the chairs of the two committees of the Congress having jurisdiction over Indian issues and after consultation with tribal governments and organizations, and two members appointed by the president of George Washington University from its faculty. Except for initial appointees, who would serve staggered terms, all Congressionally-appointed members would serve terms of three years. Until all members of the board are appointed, the Planning Committee established under P.L. 101-301 would act as an interim board.

The bill makes plain that the Institute is not to be an advocacy organization. It prohibits the Institute from representing itself as the voice of tribal governments or taking other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

The bill would also establish a Resource Advisory Council composed of 11 officials from the executive branch of the Federal government and the chairpersons of the committees in the Congress having jurisdiction over Indian affairs. The Council, to be chaired by the Congressional members, would provide technical assistance and advice to the Institute and make recommendations to the Congress.

The Institute would be required to submit annual reports to the Congress of its activities, of studies conducted, and of the sources and uses of its funds during the preceding year. Five years after the bill is signed into law, the Congress will review the performance of the Institute and its sponsoring institution.

Federal appropriations for the operation of the Institute would be made to the Secretary of the Department of Health and Human Services, who would transfer the appropriation to the Institute as a grant. The Institute would also be authorized to accept private funds.

An appropriation of \$1,000,000 would be authorized for fiscal year 1994, and such sums as are necessary for the succeeding two years.

AMENDMENT

At the Committee's business meeting on July 29, 1993, the Committee accepted an amendment proposed by Senators Wellstone and Campbell. The amendment would require the Board of the Institute to establish a process for independent peer review of research proposals submitted to the Institute and identifies three criteria that would be employed in the peer review. The amendment also would authorize the Institute to contract with research institutions that have successful experience in working with Indian tribal

governments or organizations and would authorize the Institute to give preference to such organizations.

LEGISLATIVE HISTORY

S. 1121 was introduced by Chairman Inouye for himself, Vice-Chairman McCain, and Senators Campbell, Domenici, Kassebaum, and Simon on June 16, 1993. The bill is similar to S. 3155, which was passed by the Senate during the 102nd Congress on October 2, 1992, but which was not acted upon by the House of Representatives before adjournment.

A draft bill which was later modified and introduced as S. 3155 had been the subject of a hearing by the Committee on July 21, 1992. The bill was introduced on August 7, 1992, by Chairman Inouye for himself, Vice-Chairman McCain, and Senators Akaka, Cochran, Daschle, and Simon, and it was referred to the Select Committee on Indian Affairs. Following its distribution by the Committee to all tribal government leaders, consideration of their views, and revision of the draft to incorporate recommended changes, the bill was approved by the Committee on September 25, 1992.

On May 20, 1993, the Committee on Indian Affairs held an oversight hearing on the work of the National Indian Policy Center, the temporary organization carrying out planning and conducting demonstration research projects for the proposed National Indian Research Institute. At the hearing, the Committee received testimony on research projects completed and projects that were underway. The Committee also received endorsements of the draft version of S. 1121.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On July 29, 1993, the Committee on Indian Affairs, with a quorum present, agreed to an amendment proposed by Senators Wellstone and Campbell, and voted unanimously to order the bill to be reported with the recommendation that the Senate approve the bill as amended.

SECTION-BY-SECTION ANALYSIS

Section 1—Short Title

Section 1 cites the short title of the Act as the "National Indian Research Institute Act."

Section 2—Findings

Section 2(a)(1) declares that the Congress finds that the United States has a government-to-government relationship with Indian tribal governments and an acknowledged trust responsibility to American Indians and Alaska Natives; recognizes the tribal rights of self-government, tribal goals of economic self-sufficiency and improvement of social well-being, and the unique cultural heritage of tribal people in the United States; and acknowledges the United States' ongoing commitment to facilitating Indian self-determination.

Section 2(a)(2) finds that the underlying principles of Indian policy are not invariably reflected in statutes and regulations because

of an absence of information; performance of the trust responsibility requires informed reliable information and analyses; Indian policy affects all Americans living on or near reservations; establishment of an institute to provide reliable information is warranted; and establishment of an institute is not intended, nor should it be construed to be, any delegation of responsibilities of the United States in formulating and adopting public policy.

Section 3—Definitions

Section 3 provides a definition of these terms: "Indian," "Indian tribe," "Institute," "Board," and "president."

Section 4—Establishment of Institute

Section 4(a) establishes a federally chartered corporation to be known as the "National Indian Research Institute" within the George Washington University for purposes of administration and management.

Section 4(b) provides that the Congress will have the exclusive power to dissolve the corporation established by this Act.

Section 4(c) requires the Congress, five years after enactment of the Act, to review the activities and performance of the Institute and the George Washington University to determine whether amendments to the Act are needed.

Section 5—Functions

Section 5(a) provides that the primary functions of the Institute will be to conduct and commission research concerning Federal Indian policy on the basis of provisions in this section, including the impact of such policy upon other Americans, and selection criteria adopted by its Board of Directors consistent with peer review requirements set forth in Section 7.

Section 5(b) provides that another function will be to perform an information and data clearinghouse role and describes that role.

Section 5(c) provides that a third function will be to conduct public forums and symposia.

Section 5(d)(1) provides that another function will be to disseminate the results of its research and other information consistent with a plan determined by the Board of Directors, and Section 5(d)(2) clarifies that tribal governments may impose whatever limitation they may deem appropriate on data or information they provide the Institute.

Section 6—General Powers of Institute

Section 6(a) empowers the Institute to adopt, use and alter a corporate seal; to make agreements and contracts, to sue and be sued, to use and pay for Federal services or facilities, to accept and dispose of gifts, to accept grants and receive contracts, to obtain insurance, to use any funds or property received by the Institute to carry out the purpose of the Act, and to exercise all other lawful powers related to the establishment of the Institute.

Section 7—Board of Directors

Section 7(a) provides that seven members of the Board of Directors will be appointed by the President pro tempore of the Senate

and seven will be appointed by the Speaker of the House of Representatives, based upon nominations submitted by the chairmen of the two committees of Congress having jurisdiction over Indian affairs; provides further that two members of the George Washington University faculty will be named by its president, and provides that the Institute director and the university president are to be ex officio directors; provides also that the Board is to formulate policy for the Institute and adopt by-laws; provides also for officers, task forces, and compensation of board members.

Section 7(b) provides that the Planning Committee of the National Center for Native American Studies and Indian Policy Development shall serve as the interim Board for the Institute until appointments are made to the Board.

Section 7(c) provides for three-year terms for directors, but staggered terms for the initial board.

Section 7(d) provides for filling vacancies on the Board.

Section 7(e) provides for the removal of members of the Board for just and sufficient cause.

Section 7(f) authorizes and directs the Board to formulate policy, adopt by-laws and rules, and establish a process for independent peer review of research proposals submitted.

Section 9(g) provides for the selection of officers and an executive committee.

Section 7(h) authorizes the formulation of committees and task forces.

Section 7(i) authorizes compensation of \$125 per day for members of the Board and payment of travel expenses.

Section 8—Resource Advisory Council

Section 8(a) provides for the establishment of a Resource Advisory Council to the Institute.

Section 8(b) identifies eleven officials of the executive branch and the chairmen of Congressional committees having jurisdiction over Indian affairs as members of the Council.

Section 8(c) provides that the Council (which exercises no executive authority) is to make recommendations to the Institute and the Congress, to provide technical assistance to the Institute, to attend bi-annual meetings, and to report to the Board of Directors and the Congress.

Section 9—Officers and employees

Section 9(a) empowers the Board of Directors, with the concurrence of the university's president, to appoint a director of the Institute.

Section 9(b) describes the responsibilities and authority of the director to carry out the policies and functions of the Institute.

Section 9(c) authorizes the Director to appoint and fix the compensation and duties of employees, with the approval of the Board.

Section 9(d) prescribes that the Board of the Director are to afford preference to American Indians.

Section 10—Nonprofit and nonpolitical nature of Institute

Section 10(a) prohibits the Institute from being an advocacy organization, representing itself as the voice of tribal governments or

taking any actions that might be construed as diminishing the government to government relationship of the United States to Indian tribal governments.

Section 10(b) prohibits the Institute's support of any political party or candidate for elective public office.

Section 10(c) provides that no part of the income or assets of the Institute shall benefit any director, officer, employee, or any other individual, with the exception of salaries or compensation for services.

Section 11—Tax status of Institute

Section 11(a) exempts the Institute and its franchise, capital, reserves, income and property from all taxation.

Section 12—Transfer of functions and administration by the George Washington University

Section 12(a) provides that the Institute shall assume the functions of the existing National Center for Native American Policy Studies and Indian Policy Development.

Section 12(b) provides that 30 days after an appropriation is made for the Institute, the Secretary of Health and Human Services is to award a grant to the George Washington University for all activities of the Institute, and that, subject to the availability of funds, the grant shall be automatically renewable on an annual basis until such time as Congress may provide otherwise.

Section 13—Relationship with tribal colleges and other research organizations

Section 13(a) authorizes the Institute to enter into contracts with tribal colleges, the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology to assist the Institute in carrying out its responsibilities. It also authorizes contracts with other research organizations that have experience in the conduct of research successfully carried out in cooperation with American Indians.

Section 13(b) authorizes the Director to give preference to institutions or individuals that have successfully conducted research in cooperation with American Indian tribal governments and organizations.

Section 14—Reports

Section 14(a) provides that the director of the Institute is to submit an annual report to the Chair of the Select Committee on Indian Affairs of the Senate, to the Chair of the Natural Resources Committee of the House of Representatives, to tribal governments, and to the Board; also prescribes the contents of such report.

Section 14(b) provides that the Board is to submit a budget proposal for FY 1994 and each succeeding fiscal year to the Secretary of Health and Human Services, who is to submit it to the President of the United States; further, that the budget proposal of the Institute is to be included in the annual budget of the President; further, that the Congress is not to consider private funds obtained by

the Institute in its determination of an appropriation level in any fiscal year.

Section 15—Compliance with Federal laws

Section 15 provides that, for the purpose of certain criminal laws, the Institute is to be considered to be a Federal entity and subject to such laws.

Section 16—Authorization of appropriations

Section 16 authorizes an appropriation of \$1,000,000 for the Institute for fiscal year 1994, and such sums as are necessary to carry out the provisions of the Act in fiscal years 1995 and 1996, and provides that the funds are to remain available without fiscal year limitation.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 1121, as amended, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 24, 1993.

Hon. DANIEL K. INOUE,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1121, the National Indian Research Institute Act, as ordered reported by the Committee on Indian Affairs on July 29, 1993. Assuming appropriation of the necessary funds, CBO estimates that enactment of S. 1121 would result in outlays of \$0.7 million in fiscal year 1994, \$1 million in 1995 and in 1996, and \$0.4 million in 1997. Enactment of S. 1121 could affect direct spending and receipts. Therefore, pay-as-you-go procedures as required by section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 would apply to the bill. The bill would not affect the budgets of state or local governments.

S. 1121 would establish the National Indian Research Institute as a federally chartered corporation. The Institute would conduct and commission research on federal Indian policy. The bill would require the Institute to establish an information and data clearinghouse, conduct public forums regarding Indian policy issues, and disseminate research results. The bill would authorize appropriations of \$1 million for 1994 and such sums as necessary for 1995 and 1996 to administer and manage the Institute.

The text of the legislation does not specifically state whether the Institute would be established as an independent, private entity or as a federal entity, and CBO is not able to determine from the text how the Institute would be treated for budgetary purposes. Based on information from the Office of Management and Budget, however, CBO assumes the Institute would be considered a federal entity, and its activities would be part of the federal budget.

S. 1121 would authorize the Institute to accept and dispose of gifts, bequests, grants and other properties for the benefit of the Institute. If donations were made, these collections would affect

governmental receipts, and their use would affect direct spending. CBO cannot predict the magnitude or the timing of any donations that may be received, but we estimate that the Institute would use any collections to offset expenses, resulting in no net budgetary impact. If spending occurred in a year other than the one in which donations were received, however, we estimate that the change in receipts or spending in any one year would be negligible.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Patricia Conroy.

Sincerely,

C.G. NUCKOLS,
(For Robert D. Reischauer, Director).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1121 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

Although the views of the Department of Health and Human Services were solicited with regard to S. 1121, the Committee has not received a response.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that there will be no changes in existing law made by S. 1121.



